

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JOSE ANTONIO RODRIGUEZ,

Case No. 3:23-cv-00660-MMD-CLB

Petitioner,

ORDER

v.

DAVID A. HARDY, *et al.*,

Respondents.

This action is a petition for a writ of habeas corpus, under 28 U.S.C. § 2254, by Jose Antonio Rodriguez, an individual incarcerated at the Northern Nevada Correctional Center. Rodriguez has submitted, for filing, a petition for writ of habeas corpus (ECF No. 1-1), but he has not paid the filing fee or applied to proceed *in forma pauperis*, and he has not filed a motion for appointment of counsel.

The Court has examined Rodriguez's petition as mandated by Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and determines that it merits service upon the Respondents. The Court will order the petition served upon the Respondents, and will direct the Respondents to appear, but will not require any further action on the part of Respondents at this time.

The Court will not set a deadline for Rodriguez to pay the \$5 filing fee or apply for *in forma pauperis* status after appointed counsel appears for him.

State prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The Court may, however, appoint counsel at any stage of the proceedings if the interests of justice so require. *See*

1 18 U.S.C. § 3006A; see *also* Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801  
2 F.2d at 1196. The Court determines that the interests of justice call for appointment of  
3 counsel in this case. The Court will, *sua sponte*, appoint the Federal Public Defender for  
4 the District of Nevada (“FPD”) to represent Rodriguez.

5 It is therefore ordered that the FPD is appointed to represent the Petitioner. If the  
6 FPD is unable to represent the Petitioner, because of a conflict of interest or any other  
7 reason, alternate counsel will be appointed. Counsel will represent Petitioner in all federal  
8 court proceedings relating to this matter, unless allowed to withdraw.

9 It is further ordered that the Clerk of the Court is directed to electronically serve  
10 upon the FPD a copy of this order, together with a copy of the Petition for Writ of Habeas  
11 Corpus (ECF No. 1-1).

12 It is further ordered that the FPD will have 30 days from the date of this order to  
13 file a notice of appearance, or to indicate to the Court its inability to represent Petitioner  
14 in this case.

15 It is further ordered that the Clerk of the Court is directed to add Aaron Ford,  
16 Attorney General of the State of Nevada, as counsel for Respondents and to provide  
17 Respondents an electronic copy of all items previously filed in this case by regenerating  
18 the Notice of Electronic Filing to the office of the Attorney General only.

19 It is further ordered that Respondents will have 30 days from the date of this order  
20 to appear in this action. Respondents will not be required to respond to the habeas petition  
21 at this time.

22 DATED THIS 11<sup>th</sup> Day of January 2024.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

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25 MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE  
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